

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

The proposed amendments eliminate the requirement that all Medicaid applicants with parents absent from the home be referred for services from the Child Support Recovery Unit. Instead, referrals for support services will be made on a voluntary basis. The rule on noncooperation with medical support recovery is amended to provide that this determination must be made by the Child Support Recovery Unit, rather than the income maintenance worker, due to a change in federal law.

A parent who is receiving cash assistance will lose assistance for the whole household by failure to cooperate with support recovery. However, federal Medicaid regulations do not allow a sanction on children’s assistance, and some major coverage groups are available to children only. In those cases, there is effectively no penalty for failure to cooperate. These amendments will reduce the number of child support recovery cases and concentrate recovery services on families that want support services.

The Department does not expect Medicaid recoveries from third-party sources to be reduced as a result of this change. With the advent of insurance data matches, the Department has other sources for information about absent parents’ insurance.

Requesting support recovery services does provide advantages to the client in locating parents, establishing paternity, and obtaining orders for cash and medical support. Also, when medical support is flagged by the Child Support Recovery Unit, the Department’s normal Medicaid requirements for billing third-party insurance first do not apply. A “pay and chase” procedure is applied, in which the Department pays the child’s claims and then seeks reimbursement from the absent parent’s insurance. When insurance coverage is identified through a data match, “pay and chase” applies only to prenatal care and preventive pediatric services (including pharmacy claims).

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before April 13, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code section 249A.6.

The following amendments are proposed.

ITEM 1. Rescind and reserve subrule **75.2(5)**.

ITEM 2. Amend subrules 75.14(1) and 75.14(2) as follows:

**75.14(1)** As a condition of eligibility, adult Medicaid applicants and members in households with an absent parent shall cooperate in obtaining medical support for ~~each applicant or member as well as themselves and~~ for any other person in the household for whom Medicaid is requested and for whom the applicant or member can legally assign rights for medical support, except when ~~the applicant or member has good cause as defined in subrule 75.14(8) for refusal to cooperate is established as defined in subrule 75.14(8).~~

*a.* The adult applicant or member shall cooperate in the following:

(1) to (4) No change.

b. Cooperation is defined as including the following actions by the adult applicant or member upon request:

(1) to (3) No change.

c. ~~The~~ Upon request, the adult applicant or member shall cooperate with the department in supplying information with respect to the absent parent, the receipt of medical support or payments for medical care, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. ~~The~~ Upon request, the adult applicant or member shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure medical support and payments for medical care or to establish paternity. This includes completing and signing documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

e. ~~The income maintenance~~ child support recovery unit shall make the determination of whether or not the adult applicant or member has cooperated for the purposes of this rule.

**75.14(2)** Failure of ~~the~~ an adult applicant or member to cooperate shall result in denial or cancellation of the ~~person's noncooperating adult's~~ Medicaid benefits. In family medical assistance program (FMAP)-related Medicaid cases, all deductions and disregards described at paragraphs 75.57(2) "a," "b," and "c" shall be allowed when otherwise applicable.

ITEM 3. Rescind and reserve subrule **75.14(5)**.

ITEM 4. Amend subrule 75.14(7) as follows:

**75.14(7)** Notwithstanding subrule 75.14(6), any pregnant woman or previously pregnant woman establishing eligibility under subrule 75.1(28) or 75.1(24) shall not be exempt from the provisions of 75.14(4) ~~and 75.14(5) which that~~ require ~~the~~ an adult applicant or member to assign any rights to medical support and payments for medical care ~~and to be referred to the child support recovery unit~~.

ITEM 5. Amend paragraph **75.55(2)"a"** as follows:

a. When necessary to establish eligibility, the department shall make the initial contact with the absent parent at the time of application. Subsequent contacts ~~shall~~ may be made by the child support recovery unit.